

REMARKS

The Office Action acknowledged the withdrawal of the objection to the drawings under 37 CFR 1.84(p)(5) for not including reference character(s) mentioned in the description.

The Office Action rejected claims 1-14, 20-23 and 31-[[2]]35 under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 5,941,888 ("Wallace et al."). This rejection is respectfully traversed.

The Wallace et al. reference discloses an occlusion device delivered to a desired site in a mammal to facilitate the formation of mechanical blockage or thrombi in arteries, veins, aneurysms, vascular malformations and arteriovenous fistulas (see col. 1, lines 5-9). The occlusion device comprises one or more vaso-occlusive members that can be sequentially and selectively delivered by electrolytic detachment of a sacrificial link to a desired thrombus formation site (see col. 1, lines 9-12). The sacrificial link between the vaso-occlusive members 102 and 104 is an electrolytically disintegratable link 106 (see col. 5, lines 55-56). Central to Wallace et al. invention is electrical isolation of vaso-occlusive members 102 and 104 by electrically insulative joint 108, which joins the proximal end of vaso-occlusive member 102 to link 106 (see col. 6, lines 5-8). Electrically conductive joint 110 joins the distal end of vaso-occlusive member 104 to link 106 (see col. 7, lines 54-57). During use, the occlusion device is designed so a physician can selectively deploy one or more vaso-occlusive members into an aneurysm as required until the aneurysm has been sufficiently filled (see col. 10, lines 64-67). An electric current is then applied to the device to form a thrombus within the aneurysm (see col. 11, lines 27-30). After the thrombus has been formed and the aneurysm occluded, the electrolytically disintegratable link is electrolytically disintegrated, thereby detaching the desired number of vaso-occlusive devices (see col. 11, lines 33-35).

The dictionary definition of the term "aneurysm" is a "circumscribed dilation of an artery or cardiac chamber...usually due to an acquired or congenital weakness of the wall of the artery or chamber" Stedman's Medical Dictionary, 27th Edition, page 79. The dictionary definition of the term "thrombus" (or pl. "thrombi") is "a clot in the cardiovascular system" that "may be occlusive" Stedman's Medical Dictionary, 27th

Edition, page 1832. Wallace et al. discloses a device for causing the clotting of blood within a desired site within the vascular system of a patient. Wallace et al. never discloses a device for connecting two vessels or tissues together.

A rejection based on anticipation under 35 U.S.C. 102 requires all of the elements recited in the claims of the invention to be found within the four corners of the cited reference. On page 3, the Office Action indicated it was not giving the phrase “adapted to attach tissues” patentable weight. Applicants do not agree that claim language can be ignored, but in an effort to expedite prosecution, independent claims 1, 20, 24 and 31 are amended without prejudice. Amended independent claims 1, 20, 24 and 31 and dependent claims 2-14, 21-23 and 32-35 depending from claims 1, 20 and 31, respectively, no longer include the language “adapted to” and now include “sized and shaped” language.

The limitations of the independent claims in this case are never disclosed in the Wallace et al. reference, thus the U.S.C. 102 rejection should be withdrawn. In fact, Wallace et al. never shows or describes any sort of tissue connector for attaching tissues. Instead, Wallace et al. discloses a thrombus-forming device having vaso-occlusive members used to occlude sites within vessels such as aneurysms.

The Office Action rejected claims 15-19, 24-26 and 36-38 under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 5,645,568 (“Chervitz et al.”) in view of Wallace et al. This rejection is respectfully traversed.

The Chervitz et al. reference discloses an enlarged area, pledget, bump, or the like, formed in a suture body, that, when the enlarged area is fitted into a hole formed by the suture, provides a tight fit in the hole (see col.1, lines 21-25). Pledget 13 can have a round 13a, elliptical 13b, square 13c, triangular 13d, or the like, cross section and is of a diameter to be snugly contained within the suture body 11 (see col. 3, lines 12-15). Where the suture body 11 is to be threaded through a plurality of holes, an appropriate number of pledgets 13 can be arranged at spaced intervals in the suture body (see Fig. 3 and col. 3, lines 24-28). Pledget 13 is installed in the suture body 11, the pledget can be maintained onto a cord or string 14, with the suture body 11 formed thereover to encapsulate both the cord or string 14 and the pledget 13 (see col. 3, lines 29-35).

The Office Action acknowledges that Chervitz et al. does not disclose two self-closing clips. Wallace does not cure the deficiencies of Chervitz et al. for the reasons set forth above. Chervitz et al. reference does not provide any motivation, suggestion or teachings regarding surgical clips. Instead, Wallace et al. discloses a suture having one or more enlarged areas or pledgets for tightly fitting within the hole or holes formed by the needle of the suture passing through bone, tendon, ligament, or the like, the pledgets thereby preventing the suture from moving within the hole (see col. 1, lines 11-27).

Claims 15-19 and 24-26 further include the limitation of a self-closing clip. Neither Wallace nor Chervitz et al. provides any motivation, suggestion or teachings regarding self-closing surgical clips. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination, therefore the rejection of amended claims 15-19 and 24-26 as being unpatentable over Chervitz et al. in view of Wallace should be withdrawn.

Claim 36 was amended to correct a misspelling. The objection based on 112 is believed to be moot. Claim 36-38 further includes the limitation that the surgical clip comprises an elongated member, a pair of coils surrounding at least a portion of said elongated member, said pair of coils being serially arranged and spaced from one another along said elongated member, said elongated member being shape memory material and having an unbiased shape, which includes a plurality of loops, and a biased shape, said elongated member tending to move toward said unbiased shape from said biased shape. Neither Chervitz et al. nor Wallace provide any motivation, suggestion or teachings regarding a surgical clip tending to move toward an unbiased shape from a biased shape. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination, therefore the rejection of amended claims 36-38 as being unpatentable over Chervitz et al. in view of Wallace should be withdrawn.

Support for this amendment is clearly found in the application as originally filed. No new matter is presented.

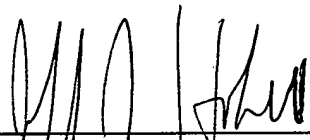
The present amendment removes issues in this case and thus should be entered.

Examination and reconsideration of the application as amended is requested. After amending claims as set forth above, claims 1-26 and 31-38 remain pending in the application and are now believed to be in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

If the Examiner comes to believe that a telephone conversation may be useful in addressing any remaining open issues in this case, the Examiner is urged to contact the undersigned at 763-391-9661.

Please charge any additional required fees or credit any overpayment to
Deposit Account No. 13-2546.

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